

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-03 Highway Safety
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Thompson	Miller
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

PCB TR 06-03 contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Examples of major provisions in the PCB include:

- Grants DHSMV the authority to make their own rules regarding settlement or compromise of taxes, penalties or interests; and authorizes DHSMV to enter into agreements for scheduling payments of taxes and penalties;
- Revises the definitions of driver's license, identification card, and temporary driver license or temporary identification card to comply with federal requirements;
- Clarifies certain law enforcement and judicial procedures for suspension of driver license and the right to review;
- Requires motorcycle riders under 21 years old to display a license plate unique in design and color; requires that the owner must prove when registering a motorcycle that they have obtained a motorcycle endorsement on their driver license; and requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of a motorcycle safety course;
- Changes the minimum age requirement at which ID cards may be issued from 12 years old to 5 years old;
- Allows All Terrain Vehicles (ATV's) to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph;
- Allows a person whose driving record shows no traffic convictions during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the requirements related to minimum vision in both eyes;
- Allows veterans of recent military conflicts to display a tag that shows their service in Operation Iraqi Freedom and Operation Enduring Freedom;
- Allows certain forestry equipment to operate on public roads to move between one point of harvest to another.

Some of the PCB's provisions are technical or administrative in nature and will have no fiscal impacts. Some of the provisions are expected to have an indeterminate fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—PCB TR 03:

- The bill gives DHSMV the authority to make their own rules regarding settlement or compromise of taxes, penalties or interests;
- The bill requires that upon original registration of any motorcycle, motor driven cycle or moped the owner must prove they have obtained necessary endorsement on the DL;
- The bill requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of the motorcycle safety course.
- The bill gives law enforcement agencies the authority to appeal any decision of DHSMV invalidating a driver license suspension by a petition for writ of certiorari to the circuit court in the county where a formal review was conducted.

Safeguard Individual Liberty—PCB TR 03:

- The bill provides for the operation of “ATV’s” by licensed drivers and minors under the supervision of a licensed driver on unpaved roadways where the speed limit is 35 mph or less;
- The bill would cause employment authorization cards issued by the United States Department of Homeland Security and proof of nonimmigrant classifications provided by the United States Department of Homeland Security to be valid for no more than one year.

B. EFFECT OF PROPOSED CHANGES:

Settlement or Compromise of Taxes, Penalty or Interest

Background

In 1981 the legislature passed HB 439¹ transferring the taxation of motor fuel and special fuel from the Public Service Commission to the Department of Revenue. In 1987 the legislature passed HB 761² transferring the fuel use tax functions of the Department of Revenue to DHSMV. Since the transfer of the administration of Chapter 207, F.S., to DHSMV from the Department of Revenue, DHSMV’s authority to settle or compromise assessments and enter into stipulation agreements has been uncertain.

Records

Section 207.008, F.S., requires each registered motor carrier to maintain records and papers as required by the Department of Revenue for the administration of the settlement or compromise of taxes, penalty or interest. Motor carriers are to preserve these records until expiration of the time within which the Department of Revenue is able to make an assessment with respect to that tax pursuant to Florida law³. The PCB amends s. 207.008, F.S., to provide that records must be maintained for four years.

Informal Conferences

¹ Chapter 81-151, Laws of Florida

² Chapter 87-198, Laws of Florida

³ S. 95.091(3), F.S.

Section 207.021, F.S., only allows DHSMV to settle or compromise penalties or interest imposed under Chapter 207, F.S., using the provisions of Section 213.21, F.S., which relates to the Department of Revenue. There is no specific authority in Chapter 207, F.S. for DHSMV to conduct informal conferences for the resolution of disputes arising from the assessment of taxes, penalties, or interest.

The PCB grants DHSMV statutory rulemaking authority regarding settlement or compromise of chapter 207, F.S., taxes, penalties or interest. The PCB also specifies that during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The PCB authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for chapter 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The PCB specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under International Fuel Tax Agreement (IFTA)⁴. A taxpayer's liability for penalties may be settled or compromised if DHSMV determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

The International Registration Plan

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all states (except Alaska and Hawaii), the District of Columbia, and the Canadian provinces (except Yukon and Northwest Territory).

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee. They distribute the fees to the other jurisdictions based on the percentage of miles the carrier will travel, or has traveled in each jurisdiction. The base jurisdiction also issues a license plate showing the word "apportioned" and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.405, F.S., relating to the IRP, does not authorize DHSMV to enter into agreements for scheduling payments of taxes and penalties due to DHSMV as a result of audit assessments issues. The PCB would allow DHSMV to enter into agreements for scheduling payments of such taxes and penalties due to the department as a result of audit assessments issued under this section.

Driver's Licenses and Identification Cards

Background: The REAL ID Act

The REAL ID Act of 2005, signed into law in May 2005, sets a May 2008 deadline for states to add detailed personal information to driver's licenses and identification (ID) cards to ensure that licensed drivers and persons issued ID cards are U.S. citizens or legal immigrants. Florida has begun the implementation of the Real ID Act to ensure that Florida's driver licenses and ID cards can be used for Federal identification purposes.

Currently the following provisions of the Real ID Act are being enforced in Florida:

- Requiring identity documents which evidences lawful presence;

⁴ S. 207.0281(1), F.S.

- Obtaining minimum document requirements of full legal name, date of birth, and gender;
- Capturing and digitizing photographs and signatures;
- Obtaining the address of principle residence;
- Producing licenses and identification cards with three levels of security features – overt, covert, and forensic as well as the security of the equipment and materials;
- Utilizing common machine readable technology with defined minimum data elements;
- Obtaining proof of Social Security Number which is verified through the Social Security Administration;
- Verifying legal presence through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE);
- Issuing temporary and limited tenure licenses and identification cards for non-citizens based on term of legal presence;
- Digital scanning and storing of identity source documents of non-United States citizens and the use of document authentication equipment;
- Fraudulent document training for our field staff statewide;
- Subjected all persons authorized to manufacture or procedure cards to appropriate security clearances. (Criminal back ground checks for our employees and vendors);
- Maintain a state motor vehicles database that contains all data fields printed on the drivers' licenses and identification cards; and their driving histories; and
- Limited the period of validity of all driver's licenses and identification cards to a period not to exceed eight years.

The PCB contains revisions to definitions and the application process for driver's licenses and ID cards in Chapter 322, Florida Statutes, to ensure compliance with all the provisions of the federal Real ID Act.

Driver's License Definitions

Currently, s. 322.01, F.S., defines "driver's license" as a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. Currently this section of law does not provide definitions for identification cards or temporary driver licenses.

The bill amends s. 322.01, F.S., to revise the following definitions to comply with federal codes:

- "Driver's license" denotes an operator's license as defined in 49 U.S.C. s. 30301;
- "Identification card" means a personal identification card issued by the department and which conforms to the definition in 18 U.S.C. s. 1028 (D); and
- "Temporary driver license" or "temporary identification card" means a certificate issued by the department, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, or a personal identification card issued by the department, which conforms to the definition in 18 U.S.C. s. 1028(D), and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States.

Application for Licenses

Currently, s. 322.08, F.S., requires the following information for proof of nonimmigrant classification provided by the Department of Homeland Security, for an original driver's license:

- A notice of hearing from an immigration court scheduling a hearing;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Immigration and Naturalization Service,
- Any official documentation confirming the filing of a petition for asylum status or other relief issued by the Immigration and Naturalization Service;
- A notice of action transferring any pending matter from another jurisdiction to this state issued by the Immigration and Naturalization Service; and

- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The PCB would allow the documentation of refugee status and evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.08, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original driver's license, entitles the applicant to a driver's license for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. The PCB would change the maximum period of entitlement for a driver's license from 2 years to 1 year if these documents are presented by the applicant.

ID Cards

Currently s. 322.051, F.S., relating to ID cards, provides that any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit⁵, under Florida law can be issued an ID card by DHSMV upon completion of an application and payment of an application fee. The PCB would amend s. 322.051, F.S., changing the minimum age requirement that ID cards may be issued from 12 years old to 5 years old.

Section 322.051, F.S., also requires the following documents to be presented in order to prove nonimmigrant classification for purposes of obtaining an ID card:

- A notice of hearing from an immigration court scheduling;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Bureau of Citizenship and Immigration Services;
- Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the Bureau of Citizenship and Immigration Services;
- A notice of action transferring any pending matter from another jurisdiction to Florida, issued by the Bureau of Citizenship and Immigration Services; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The PCB would allow evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.051, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original identification card, entitles the applicant to an identification card for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. The PCB would change the maximum period of entitlement for driver's identification cards from 2 years to 1 year if these documents are presented by the applicant.

Suspension of License and Right to Review

Background: Driving Under the Influence (DUI)

⁵ S. 320.0848, F.S.

Currently, when an individual is arrested for a violation of s. 316.193, F.S., and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest. The PCB revises various provisions to Chapter 322, to provide clarification and consistency between driver license administrative suspension laws, ss. 322.2615 and 322.2616, and also addresses issues raised by courts in cases involving DHSMV's implementation of these sections.

Lawful Arrest

According to a recent Florida case⁶, Section 322.2615, F.S., provides that during a formal administrative review of a driver license suspension, the hearing officer must determine whether the person was placed under lawful arrest for a violation of s. 316.193, F.S., if the validity of the traffic stop is challenged. The court's opinion stated, "This provision contemplates that issues relating to the lawfulness of the stop... will be resolved under the issue concerning the lawfulness of the arrest."⁷

The PCB makes the following changes to s. 322.2615, F.S. to negate the need for DHSMV to show during the administrative review of a driver license suspension that a lawful arrest for a violation of s. 316.193, F.S. occurred in order to suspend the driver's license. The PCB:

- Clarifies the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
 - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher,
 - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides that if a blood test has been administered and the results are not available at the time of arrest, the officer or the agency employing the officer is required to transmit the results to DHSMV within 5 days after receipt of the results.
- Requires the law enforcement officer to forward to DHSMV, within 5 days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Clarifies the language relating to informal review by changing the word arrested to suspended;
- Clarifies the authority of hearing officer when suspension is under formal review, specifying that the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the blood and breath alcohol level for suspension, and removing the reference to arrest under s. 316.193, F.S.;
- Provides that materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;
- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying that the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiorari to the circuit court; and
- Provides that DHSMV's decision, and any circuit court review of that decision, may not be considered in any DUI trial for a violation of s. 316.193, F.S.

Motorcycle Riders

Equipment

⁶ See Adam Schwartz v. State of Florida, Department of Highway Safety and Motor Vehicles, 2005 WL 3481087 (Fla.App.3 Dist.)

⁷ *ID.*

The National Highway Traffic Safety Administration has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards (FMVSS) and Regulations to which manufacturers of motor vehicle and equipment items must conform and certify compliance. FMVSS Standard No. 218, establishes minimum performance requirements for helmets designed for use by motorcyclists and other motor vehicle users.

Currently, s. 316.211, F.S., provides the following requirements for motorcycle and moped riders:

- A person is not to operate or ride on a motorcycle unless the person is properly wearing protective headgear which complies with FMVSS Standard 218;
- A person may not operate a motorcycle unless the person is properly wearing an eye-protective device of a type approved by DHSMV;
- These regulations do not apply to persons riding within an enclosed cab or 16 years of age or older and operating or riding a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or not rated in excess of 2 brake horsepower and which is not capable of propelling itself at a speed greater than 30 miles per hour on level ground;
- A person over 21 years of age is allowed to operate or ride a motorcycle without wearing protective headgear if they are covered by an insurance policy providing for at least \$10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle.
- A person under 16 years of age may not operate or ride a moped unless the person is properly wearing protective headgear which complies with FMVSS Standard 218; and
- DHSMV must make available a list of approved protective headgear, and the list must be provided on request.

The PCB would amend s. 316.211, F.S., to require that motorcycles registered to persons who have not attained 21 years of age must display a license plate that is unique in design and color. Because the helmet exemption applies to riders over 21, this would allow for better enforcement of the state's helmet law requirements.

Registration

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle operated or driven on the roads of this state is required to register the vehicle in this state. The owner or person in charge must apply to DHSMV or to its authorized agent for registration on a form prescribed by DHSMV.

The PCB amends s. 320.02, F.S., to provide that before an original registration of a motorcycle, motor driven cycle or moped can be issued, the owner must present proof of successfully completing a test of his or her knowledge concerning the safe operation of the motorcycle or moped and a test of his or her driving skills on such vehicle. This provision will become effective January 1, 2007.

Examination of Applicants

Currently, s. 322.12, F.S., requires that every first-time applicant for licensure to operate a motorcycle who is under 21 years of age must provide proof of completion of a motorcycle safety course, as provided in 322.0255, F.S., before the applicant is licensed to operate a motorcycle. The PCB amends this provision and would require that regardless of age, all first-time applicants for licensure to operate a motorcycle must provide proof of completion of a motorcycle safety course. This provision will become effective January 1, 2007.

According to DHSMV, fatalities among motorcyclist have risen in Florida. Statistics show that within the last two years, there have been no fatalities among those riders completing the Florida Motorcycle Safety Education Program. These changes to licensing and registration laws are intended to reduce crashes among motorcyclists.

All Terrain Vehicles (ATV's)

Operation

Current law, s. 316.2074, F.S., does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency. All-terrain vehicles are defined in s. 316.2074, F.S., as any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. The definition of "all-terrain vehicle" also includes any "two-rider ATV" as defined in s. 317.0003, F.S.

According to the Division of Forestry the speed limit on all roads within forests is 30 mph unless posted otherwise. These speed limits are based on road design and basic knowledge of maximum safe speeds within each park. The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act, Chapter 261, F.S. provides the State of Florida with a set of guidelines to follow for maintaining and providing state lands for Off-Highway Motorcycle and All-Terrain Vehicle users. This act does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency.

Section 316.2074, F.S., also provides the following related to ATV's:

- No person under 16 years of age is allowed to operate, or ride an all-terrain vehicle unless the person wears an approved safety helmet and eye protection;
- If a crash results in the death of any person or injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the crash must give notice of the crash as required by s. 316.066, F.S.;
- An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach;
- An all-terrain vehicle having four wheels may be used by law enforcement officers on public roads within public lands while in the course and scope of their duties; and
- A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318, F.S.

The PCB creates s. 316.2123, F.S., allowing "ATV's" to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The drivers are required to provide proof of ownership if requested by law enforcement.

CDL Vision Exemption

Currently, s. 316.302, F.S., contains a grandfather clause that exempts a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987, and whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under federal law⁸, and who operates a commercial vehicle in intrastate commerce only, from requirements of the federal law relating to minimum vision requirements in both eyes. However, such operators are still subject to the requirements of ss. 322.12 and 322.121, F.S., relating to the examination of driver license applicants. As proof of eligibility, such driver is to have in his or her possession a physical examination form dated within the past 24 months.

The PCB would allow a person with normal vision in only one eye whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the vision requirements of 49 C.F.R. part 391, subpart E, s. 391.41(b)(10). The driver would have to have in his or

⁸ 49 C.F.R. part 391

her possession a physical examination form dated within the past 24 months. This change would make the state exemption consistent with federal waiver provisions.

Motor Vehicle Dealers

Continuing Education

Currently s. 320.27, F.S., requires all independent motor vehicle dealers to complete 8 hours of continuing education prior to filing the renewal forms to DHSMV. The continuing education is to include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle industry topics. The education may be provided in a classroom setting or by correspondence.

This change would require only independent motor vehicle dealers who have been in business for less than five years to complete the continuing education listed in s. 320.27, F.S. This change would limit the continuing education course requirement to only those independent dealers who are relatively new to the business.

Low Speed Vehicles

Currently, s. 320.27, F.S., relating to motor vehicle dealers, defines "motor vehicle" as any motor vehicle of the type and kind required to be registered and titled under chapter 319 and this chapter, except a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or mobile home.

The bill amends s. 320.27, F.S., by adding low speed vehicles to the list of vehicles excepted from the definition of "motor vehicles" for motor vehicle dealer licensing purposes. Low speed vehicles are defined in s. 320.01, F.S., as any four-wheeled electric vehicle complying with federal safety standards whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

Sellers of low speed vehicles are required to be licensed as motor vehicle dealers. These same businesses are not required to be licensed to sell golf carts. Low speed vehicles and golf carts are similar in design. This change would eliminate the requirement that sellers of low speed vehicles be licensed as motor vehicle dealers.

Technical Changes

The PCB makes technical changes to s. 320.27(9)(b)18, F.S., of the motor vehicle dealer law to change the word 'owned' to 'owed' and to correct a cross reference to s. 320.02(17).

Operation Iraqi Freedom and Operation Enduring Freedom License Plates

Currently an owner or lessee of a private vehicle who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active or retired member of any branch of the United States Armed Forces Reserve, may apply to DHSMV and be issued either a "National Guard," "Pearl Harbor Survivor," "Combat-Wounded Veteran," or "U.S. Reserve," license plate.

The bill amends s. 320.089, F.S., to create Operation Iraqi Freedom and Operation Enduring Freedom license plates and qualifies Operation Iraqi Freedom and Operation Enduring Freedom veterans as the exclusive recipients of these plates. There would be no additional charge for the new license plate.

Forestry Equipment

Section 316.515, F.S., currently, only allows the following machinery to operate on public roads from one point of production to another:

- Straight trucks,
- Agricultural tractors,
- Cotton module movers, not exceeding 50 feet in length,
- Any combination of up to and including three implements of husbandry including the towing power unit,
- Any single agricultural trailer with a load thereon,
- Agricultural implements attached to a towing power unit not exceeding 130 inches in width, and
- A self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width.

This section only allows the above listed machinery to operate on public roads from one point of production to another for the following purposes:

- Transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage,
- Returning to the point of production,
- Moving the tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler.

The PCB amends s. 316.515, F.S., to allow equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, to operate on public roads to get from one point of harvest to another point of harvest. These vehicles must be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules.

Police Vehicles

Section 319.14, F.S., prohibits the sale, or exchange of any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681 relating to motor vehicle sales warranties or the "lemon law," until DHSMV has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. According to some law enforcement agencies, branding the title of non-pursuit vehicles as police vehicles reduces the resale value of these vehicles.

The bill amends the definition of "police vehicles" in s. 319.14, F.S., to include the words "marked and outfitted as a pursuit vehicle" so that only pursuit vehicles would have to be issued a title branded as a police vehicle. According to some law enforcement agencies this provision would increase the resale value of non-pursuit vehicles owned by the law enforcement agency.

Dump Trucks

Taillamps

Currently s. 316.221, F.S., relating to taillamps requires taillamps or separate lamps to be constructed and placed to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, must be wired to light up whenever the headlamps or auxiliary driving lamps are lighted. The PCB exempts dump trucks and vehicles with dump bodies from the requirements of this section relating to illumination of license plates.

License Plates

Section 320.0706, F.S., requires the owner of any commercial truck of gross vehicle weight of 26,001 pounds or more to display the registration license plate on both the front and rear of the truck in conformance with all the requirements of s. 316.605, F.S. However, the owner of a truck tractor is required to display the registration license plate only on the front of such vehicle. Current law does not provide for a height requirement for the display of license plates on commercial trucks of gross vehicle weight of 26,001 pounds or more.

The bill amends s. 320.0706, F.S., allowing the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches from the ground to the top of the license plate to allow for better visibility.

Technical Changes/Reexamination of Drivers

The PCB makes technical changes to s. 322.121, F.S., related to the periodic reexamination of drivers. This change would correct the cross references to paragraphs (a) through (f) of s. 322.57(1).

Effective Date

Except as specifically provided in various sections of the bill, the act would become effective on October 1, 2006.

C. SECTION DIRECTORY:

Section 1 amends s. 207.008, F.S., to revise the requirements for retention of records by motor carriers as required by DHSMV;

Section 2 amends s. 207.021, F.S., to provide for informal conferences to DHSMV to resolve disputes arising from the assessment of taxes, penalties, or interest;

Section 3 amends s. 320.405, F.S., to provide that DHSMV is authorized to enter into agreements related to the International Registration Plan;

Section 4 amends s. 322.01, F.S., to revise the definition of "driver license"; to define "identification card" and "temporary driver license" or "temporary identification card";

Section 5 amends s. 322.08, F.S., to revise the criteria related to the proof of nonimmigrant classification of an applicant for a driver's license; providing for electronic verification of the documents;

Section 6 amends s. 322.051, F.S., to revise the criteria related to the proof of nonimmigrant classification of an applicant for an identification card; providing for electronic verification of the documents; and to revise the age requirements for the issuance of ID cards from 12 years old to 5;

Section 7 amends s. 322.2615, F.S., to clarify procedures, language and content related to suspension of license and right to review;

Section 8 amends s. 316.211, F.S., to provide an effective date of January 1, 2007; to require motorcycle riders under 21 years old to display a license plate unique in design and color;

Section 9 amends s. 320.02, F.S., to provide an effective date of January 1, 2007; to require that for an original registration of any motorcycle, motor-driven cycle, or moped, the owner is to present proof that he or she has obtained the necessary endorsement as required in s. 322.57, F.S.;

Section 10 amends s. 322.12, F.S., to provide an effective date of January 1, 2007; to revise the requirements for first-time applicants for licensure to operate a motorcycle;

Section 11 amends s. 316.2123, F.S., to allow “ATV’s” to be operated by licensed drivers during the daytime on unpaved roads where the posted speed limit is less than 35 miles per hour; requiring proof of ownership by the operator;

Section 12 amends s. 316.302, F.S., to delete the requirement that a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987 from the CDL vision exemption;

Section 13 amends s. 320.27, F.S., to provide that sellers of low speed vehicles do not have to be licensed as motor vehicle dealers; to revise the motor vehicle dealer licensing requirement for independent motor vehicle dealers who have been in business for less than five years to complete 8 hours of continuing education every two years; to change the word owned to owed; to correct a cross reference to s. 320.02(17), F.S.

Section 14 amends s. 320.089, F.S. to create the “Operation Iraqi Freedom” and the “Operation Enduring Freedom” license plates;

Section 15 amends s. 316.515, F.S., to allow the operation of certain forestry equipment on public roads;

Section 16 amends s. 319.14, F.S., to revise the definition of police vehicle for the purpose of title branding;

Section 17 amends s. 316.221, F.S., to provide a taillamp exemption for dump trucks;

Section 18 amends s. 320.0706, F.S., to revise the display of license plates on dump trucks;

Section 19 amends s. 322.121, F.S., to revise periodic license examination requirements;

Section 20 This bill takes effect October 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below.

D. FISCAL COMMENTS:

State Impacts

Police Vehicles

The PCB's changes to s. 319.14, F.S., related to title branding, could have a positive fiscal impact on law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Local Impacts

Police Vehicles

The PCB's changes to s. 319.14, F.S., related to title branding, could have a positive fiscal impact on law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Private Sector Impacts

Motorcycle Riders

The PCB amends s. 322.12, F.S., to require all applicants for a motorcycle driver's license endorsement regardless of age to successfully complete a motorcycle safety course. These courses are offered by different vendors throughout the state. The course registration fees vary and will result in an indeterminate negative fiscal impact on motorcycle drivers over 21 and an indeterminate positive fiscal impact for the course providers.

Continuing Education for Motor Vehicle Dealers

The PCB amends s. 320.27, F.S., to only require independent motor vehicle dealers who have been in business for less than five years to successfully complete a continuing education course. This change would result in an indeterminate negative fiscal impact for the continuing education course providers and an indeterminate positive fiscal impact for motor vehicle dealers with more than five years of business experience.

Low Speed Vehicles

The PCB amends s. 320.27, F.S., to eliminate the requirement for sellers of low speed vehicles to be licensed as motor vehicle dealers. This change could have an indeterminate positive fiscal impact on businesses that sell low speed vehicles.

Forestry Equipment

The PCB amends s. 316.515, F.S., to allow certain forestry equipment to operate on public roads to go from one point of harvest to another. This change could have an indeterminate positive fiscal impact on the owners of the equipment being transported.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DHSMV has sufficient rule-making authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES